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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

MARK EDWARD VAUGHAN,

Defendant and Appellant.

A094004

(Napa County

Super. Ct. Nos. CR 102308 & 102337)

Mark Vaughan appeals from a judgment of conviction entered upon a plea of nolo contendere. Appellant's court-appointed counsel has briefed no issues and asks this court to review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

A complaint (Case No. CR 102308) filed in the consolidated court for Napa County charged appellant with three counts of the sales of methamphetamine (Health & Saf. Code, § 11379, subd. (a)).<sup>1</sup> A second complaint (Case No. CR 102337) filed five days later charged appellant with an additional count of the sales of methamphetamine (§ 11379, subd. (a))

Appellant pleaded nolo contendere to two counts of the sales of methamphetamine (§ 11379, subd. (a)) alleged in the first complaint (Case No. CR 102308) and to a third count of the same offense (§ 11379, subd. (a)) alleged in the second complaint (Case No. CR 102337). The court then granted the prosecution's motion to dismiss the remaining count (§ 11379, subd. (a))

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<sup>1</sup> All statutory references are to the Health and Safety Code.

The court selected one count of the sales of methamphetamine (§ 11379, subd. (a)) as the primary term and sentenced appellant to the middle term of three years in state prison. The court then sentenced appellant to a consecutive year in state prison, or one-third the middle term, for each of the two remaining counts of the same offense. Thus, appellant's aggregate term totaled five years. The court granted appellant 158 days' total presentence credit and ordered him to pay a \$200 restitution fine.

Appellant was represented by counsel throughout the proceedings.

There was no sentencing error.

There are no issues that require further briefing.

The judgment is affirmed.

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Ruvolo, J.

We concur:

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Kline, P. J.

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Lambden, J.